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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,976	02/18/2004	David S. Klutz	5683	1675

7590 07/07/2006

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EXAMINER

SINGH, ARTI R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/780,976	Applicant(s) KLUTZ ET AL.	
	Examiner Ms. Arti Singh	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) ~~9-18~~ ^{9-13, 15-16} is/are rejected. *ag*
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/06</u> . | 6) <input type="checkbox"/> Other: ____. |

Response to Amendment

1. The Examiner has carefully considered Applicant's remarks and accompanying amendments dated 02/13/06 and 04/13/06. The terminal disclaimers have also been entered and placed in the file. All previously made rejections are now withdrawn and a new rejection is set forth below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims ~~9-18~~ *9-13 and 15-18* are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0037963 A1 issued to Hubner et al. further in view of US 2005/0000028 A1 issued to Baker et al.

4. Hubner et al disclose a textile surface with hydrophilic properties on one side and hydrophobic properties on the other side; a paste is applied to one side, which comprises a emulsion or dispersion of paraffin, polysiloxane and/or fluorine compounds. Following this, the coat formed by the first paste is stabilized in a drying process after which a second paste consisting of hydrophilic polymers is applied to the other side of the textile surface and is stabilised in a further drying process (5). These process steps create a textile surface manufactured which offers a high degree of comfort to the wearer and in which, moisture will be immediately absorbed on the hydrophilically treated side, distributed over a wide area and rapidly taken away, while the hydrophobically treated side of the textile surface is

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water-repellent (abstract). Hubner et al do not disclose the specifics of their hydrophilic layer which is remedied by Baker.

5. Baker et al. in paragraph [0150] teach that of suitable surfactants for suspending fabric care active within the carrier droplets include siloxane-based surfactants; anionic surfactants; nonionic surfactants; cationic surfactants; zwitterionic surfactants; ampholytic surfactants; semi-polar nonionic surfactants; gemini surfactants; amine surfactants; alkanolamine surfactants; phosphate-containing surfactants; and fluorosurfactants. Baker uses these chosen surfactants so that the uniform absorption of the solvent is equally absorbed onto the fabric.

A person having ordinary skill in the art at the time the invention was made would have found it obvious to have employed the specific surfactant of Baker as the surfactant of choice in the composite of Hubner et al. One would have been motivated to do this for the desire of employing a surfactant that would uniformly distribute (absorb) the solvent over the fabric

With regard to the properties desired by Applicant in Claims 11-13 against the test methods, it is the position of the Examiner that if structurally and chemically the same article is produced then when tested against the same test methods the results would also be the same. If Applicant disagrees with this then the burden is shifted to Applicant to prove otherwise.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 571-272-1483. The examiner can normally be reached on M-T 9-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ms. Arti Singh
Primary Examiner
Art Unit 1771

Ars